

06.12.2024
Court No.23
DL – 3
M.H

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**RVW 199 of 2024
In
WPA 23514 of 2023**

**Sk. Ekbal @ Ekbal Sk.
versus
The State of West Bengal & Ors.**

Mr. Rananeesh Guhathakurta,
Ms. Dona Ghosh
.... for the Petitioner/Review
Applicant.

Mr. Jayanta Samanta,
Mr. Joydip Bose
....for the State.

Mr. Balai Ch. Pal,
Mr. S.M. Oabidullah
....for the Respondent No.4.

Supplementary affidavit filed by the respondent no.4 in the review application in Court today is taken on record.

Before finally passing the order, the facts of the case are briefly narrated below for convenience;

The writ petitioner/ review applicant was an employee of M/S. Budge Budge Company Ltd., the respondent no.4 in the writ petition as also in the review application. The writ petitioner/review applicant approached the Controlling Authority under the Payment of Gratuity Act, 1972 ventilating certain grievances regarding non-payment of gratuity. The writ petitioner/review applicant was a 'Badli Worker' under

respondent no.4. On having fulfilled the criteria of working for 240 days continuously in a calendar year, the service of the petitioner/ review applicant was regularized. The petitioner/ review applicant thereafter served the said Company as a regular employee and retired on having reached the age of superannuation.

The Controlling Authority held that the petitioner/ review applicant is entitled to gratuity on being computed on the basis of certain number of years, he has served the respondent no.4. This order of the Controlling Authority was challenged by the respondent no.4 before the Appellate Authority. The Appellate Authority partially modified the order of the Controlling Authority.

The order of the Controlling Authority on being modified, the petitioner (employee) filed this writ petition being WPA 23514 of 2023. The said writ petition was disposed of by an order dated 3rd April, 2024. The order dated 3rd April, 2024 modified the order of the Appellate Authority. The petitioner/ review applicant contends that apart from the years for which the petitioner has been allowed gratuity by the order dated 3rd April, 2024, the petitioner was entitled to further years, being for the years as allowed by the Controlling Authority. The review application was filed on that basis.

During the pendency of the review application, the petitioner (employee)/ review applicant entered into an

out of Court settlement and received a sum of Rs.67,000/- towards his claim. These facts which have occurred subsequent to filing of the review application, has been brought on record by the respondent no.4 through the supplementary affidavit filed in Court today.

On behalf of the petitioner, it is submitted that the petitioner/ review applicant was entitled to receive money as per the order of the Controlling Authority and not as per the partial modification made by the Appellate Authority or by this Court vide order dated 3rd April, 2024. As a reduced amount has been received by the petitioner, the learned advocate also submits that if the review application is disposed of recording the satisfaction of the petitioner/ review applicant on receiving the reduced amount then the finding of this Court in the order dated 3rd April, 2024 shall remain and will be a binding precedent in respect of all employees of the respondent no.4.

This Court is unable to accept the submission made on behalf of the petitioner/ review applicant. Firstly, by receiving Rs.67,000/- towards full and final settlement of his claim, the petitioner/ review applicant retains no further right to assail the order dated 3rd April, 2024 through this review application.

Secondly, a judgment and order is delivered in the context of the fact of the case. If the facts of this case, in respect of other employees are different, this Court

fails to appreciate as to how the finding in the order dated 3rd April, 2024 in the light of fact of this case will bind others whose facts may be different.

At the end of the day, the petitioner having received Rs.67,000/- towards full and final settlement of his claim, no further claim on behalf of the petitioner/ review applicant as against the respondent no.4 on account of gratuity subsists as on date.

The review application, therefore, is disposed of without any further order but recording accord and satisfaction of the claim of the petitioner/ review applicant. The review application being RVW 199 of 2024 is accordingly disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Arindam Mukherjee, J.)